



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

SOUTHWEST REGIONAL OFFICE

Douglas W. Domenech
Secretary of Natural Resources

355 Deadmore Street, PO Box 1688, Abingdon, Virginia 24212

Phone (276) 676-4800 Fax (276) 676-4899

www.deq.virginia.gov

David K. Paylor
Director

Dallas R. Sizemore
Regional Director

EXECUTIVE COMPLIANCE AGREEMENT

Department of Behavioral Health and Developmental Services' Southwestern Virginia Mental Health Institute

This is an Executive Compliance Agreement (the "Agreement") between the Department of Behavioral Health and Developmental Services' Southwestern Virginia Mental Health Institute ("SVMHI") and the Virginia Department of Environmental Quality ("DEQ") pursuant to the Director's authority, as set forth in Sections 10.1-1185, 10.1-1405 and 10.1-1455 of the Code of Virginia, to administer and enforce the Waste Management Act and Regulations.

SVMHI, located in Marion, Virginia, operates as a mental health treatment facility within the Department of Behavioral Health and Developmental Services. Regulated medical wastes are generated in the normal course of operation of the facility. Regulated medical waste is regulated by the Regulated Medical Waste Management Regulations, 9 VAC 20-120-10 *et seq.*, a part of the Virginia Waste Management Act and Regulations.

1. On October 21, 2009, DEQ Southwest Regional Office ("SWRO") staff was notified by City of Bristol, Virginia Integrated Solid Waste Management Facility personnel that it had received regulated medical waste ("RMW") that day. The RMW was contained in a load of solid waste dumped on the landfill working face. The RWM was contained in black garbage bags. Correspondence from SVMHI indicated that the RMW had been placed in the compactor at the facility. Per DEQ site inspection on October 21, 2009 and documentation provided to DEQ, the RMW included sharps, sharps containers, and red bag waste (stuffed inside black bags). These items are RWM pursuant to 9 VAC 20-120-150(A). RWM disposal at a solid waste management facility is prohibited by 9 VAC 20-120-300(B).
2. Per City of Bristol, Virginia personnel, the RMW was received from the SVMHI, and was delivered by Waste Management.

3. Per documentation provided by City of Bristol, Virginia personnel, a total of 11.62 tons of material identified as contaminated medical waste (a mixed load of municipal solid waste and regulated medical waste removed from the landfill working face) was collected in a roll-off container for proper disposal.
4. Environmental Options was contracted by SVMHI to transport the rejected material for proper disposal.
5. On November 9, 2009, DEQ's SWRO issued a Notice of Violation ("NOV") to SVMHI, citing violations of the following Regulated Medical Waste Management Regulations:
 - A.) 9 VAC 20-120-210. "Packaging prior to storage, treatment or transport. All regulated medical waste shall be packaged as follows: 1. When regulated medical wastes are discarded, they shall be placed in containers meeting the requirements of the standards for occupational exposure to bloodborne pathogens in the general industry standard in 16 VAC 25-90-1910.1030. The general industry standard requires the packaging to be closable, constructed to prevent leakage, labeled with the biohazard symbol, and closed to prevent spillage during handling. Upon being placed in storage, red bags shall be used for the packaging of all regulated medical waste except as provided in subdivision 2 of this section. Packaging shall be labeled as provided for in 9 VAC 20-120-220. 2. Contaminated sharps shall be placed directly in containers as required by the general industry standards in 16 VAC 25-90-1910.1030. The containers shall be labeled as provided for in 9 VAC 20-120-220. 3. As bags and containers become full, they shall be sealed such that no waste materials can leak. 4. Prior to transporting regulated medical waste, waste will be packaged for transportation in accordance with the standards of 49 CFR Part 173 or packaged in accordance with an exemption approved by the United States Department of Transportation."
 - B.) 9 VAC 20-120-220. "Labeling requirements. Waste packaged under subdivisions 1 or 2 of 9 VAC 20-120-210 shall be labeled. The label shall be securely attached to or printed on packaging. The label may be a tag securely affixed to the package. Indelible ink shall be used to complete the information on the label. The label and the information provided on the label must be clearly legible. The following information shall be included: 1. The name, address and business telephone number of the generator. 2. "Regulated Medical Waste" in large print. 3. The Biological Hazard Symbol."
6. In written response to the NOV issued to SVMHI, SVMHI personnel stated that an internal security investigation of the RMW incident had been conducted, and detailed actions taken to prevent any such reoccurrence. Those actions included a thorough inspection of all areas to insure waste is being handled properly and

adequate, appropriate supplies are available (such inspections will be ongoing at the facility); heightened awareness of proper handling through face-to-face discussions, discussions at Department and Unit meetings, and e-mails to all staff; removal of large black liners from all patient care areas, replacing them with clear liners, such that waste is visible and any improper disposal of RMW in such containers will be more likely to be quickly identified; replacement of RMW galvanized cans with RMW totes provided by Sci-Med Waste Systems, Inc.; scheduling of refresher training and awareness training for employees; placement of signage on trash compactors prohibiting placement of RMW within them; and increased inspections of trash compactors. This written correspondence also included submittal of the following items to DEQ:

- A) letter documenting removal and transport of the contaminated waste from the Bristol Landfill to Sci-Med for treatment;
- B) straight bill of lading and City of Bristol weight tickets for both 30-yard roll-off containers used to transport contaminated waste;
- C) Certificate of Destruction from Sci-Med Waste Systems for the disposal of 27,740 pounds of RMW;
- D) Invoice from Environmental Options, Inc. for waste removal and treatment services;
- E) City of Bristol weight ticket for the waste delivered to the landfill on October 21, 2009 (12,460 pounds);
- F) SVMHI Security Department Internal Investigation Report;
- G) An e-mail to all staff detailing proper RMW handling procedures;
- H) Copy of Departmental meeting minutes for Housekeeping and Laundry employees;
- I) An e-mail scheduling additional staff training regarding proper RMW handling procedures.

To remedy these matters, SVMHI and DEQ agree to the schedule of action in Appendix A.

This Agreement shall become effective upon the date of its execution by the Director of the Department of Environmental Quality or his designee. The Department of Behavioral Health and Developmental Services' Southwestern Virginia Mental Health Institute agrees to be bound by any compliance dates in this Agreement which may predate its effective date.

Cynthia McClaskey

Cynthia McClaskey, Ph.D. – Director
Department of Behavioral Health and Developmental
Services' Southwestern Virginia Mental Health Institute

2-8-10

Date

Dallas Sizemore, Regional Director
Department of Environmental Quality

Date

APPENDIX A

Department of Behavioral Health and Developmental Services' Southwestern Virginia Mental Health Institute agrees to complete the following actions by the dates noted below:

1. Within 30 days of DEQ's signing of this Executive Compliance Agreement, SVMHI shall submit a letter to DEQ's SWRO certifying that all personnel who handle or dispose of RMW have received updated training regarding the proper packaging, labeling, identification and disposal of RMW.
2. Within 30 days of DEQ's signing of this Executive Compliance Agreement, SVMHI shall submit to DEQ's SWRO complete copies of the following:
 - A) Facility Policy 2075 Materials-Hazardous Material, Handling/Storage, and Disposal;
 - B) Facility Policy 12009 Disposal of Regulated Medical Waste, Needles/Syringes, and Other Sharp Items; and
 - C) All other current written policies or procedures related to the handling and disposal of regulated medical waste generated at the facility.